

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF  
DELAWARE

STATE FARM MUTUAL AUTOMOBILE )  
INSURANCE COMPANY (as subrogee of )  
Cynthia Thomas) )  
Plaintiff ) 0 7 - 5 4 3  
vs. ) C.A. No.  
UNITED STATES OF AMERICA (U.S. )  
POST OFFICE) )  
& RYAN T. ROWE )  
Defendants. )

**COMPLAINT**

Plaintiff State Farm Mutual Automobile Insurance Company ("State Farm") by and through its undersigned attorney, hereby alleges and states as follows:

**Jurisdiction and Venue**

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1346, as it is an action in which a U.S. Government agency is a defendant.
2. Venue properly lies in this Court under 28 U.S.C. § 1391(e), as defendants reside within the District of Delaware and the events giving rise to the action occurred within the District of Delaware.

**The Parties**

3. Plaintiff State Farm is an Illinois mutual insurance company collectively owned by its policyholders with its principal place of business in Bloomington, Illinois. State Farm is licensed and authorized to transact business in the State of Delaware.

4. On information and belief, defendant U.S. Postal Service ("U.S.") is a U.S. Government agency doing business in the State of Delaware and was the owner of the motor vehicle involved in this incident.

5. On information and belief, defendant Ryan T. Rowe ("Rowe"), is an adult individual, who at all times relevant to this Complaint, resided in the State of Delaware and continues to reside in the State of Delaware.

**Factual Allegations Common To All Counts**

6. On or about September 8, 2003, State Farm had in effect a valid contract of automobile insurance with Cynthia D. Thomas, providing benefits in accordance with Delaware law and insuring against the risk of loss to a motor vehicle owned by Ms. Thomas.

7. On the aforesaid date, the motor vehicle insured by State Farm, hereafter referred to as the "insured vehicle", was involved in a collision with a motor vehicle owned by defendant U.S. and operated by defendant Rowe in his capacity as agent, servant, workman, or employee of defendant U.S., hereafter referred to as the "defendant vehicle". At the time of the accident, defendants U.S. and/or Rowe, by themselves, or through their agents, were transacting business in the state of Delaware or were performing work in the State of Delaware or were contracting to supply services in the state of Delaware when their acts and/or omissions caused tortious injury in the state of Delaware.

8. On the aforesaid date, the insured vehicle was traveling westbound on Herring Run. The defendant was exiting the Seaford Village Shopping Center and

entering Herring Run when it struck and caused injuries to the occupants of the insured vehicle.

9. Defendant Rowe was negligent and careless and the sole cause of this incident in that defendant Rowe:

- a. failed to give full time and attention to the operation of their vehicle or maintain a proper lookout while operating their vehicle in violation of 21 Del. C. § 4176(b);
- b. operated their vehicle in a careless or imprudent manner, disregarding the hazards created other motorists and merging traffic, and did not operate their vehicle in a reasonably and prudently safe manner with respect to those conditions in violation of 21 Del. C. § 4176(a);
- c. did not operate their vehicle with a speed calculated to avoid collision with another vehicle in violation of 21 Del. C. § 4168(a);
- d. operated their vehicle recklessly with willful or wanton disregard for the safety of persons or property in violation of 21 Del. C. § 4175(a);
- e. did not yield the right of way to vehicles approaching from another merging roadway in violation of 21 Del. C. § 4164(c);
- f. failed to yield the right-of-way to a vehicle which has entered the intersection from a different highway in violation of 21 Del. C. § 4131;
- g. failed to yield the right-of-way to to all vehicles approaching on the roadway to be entered or crossed in violation of 21 Del. C. § 4133;
- h. was otherwise negligent and/or violated local laws and the laws of the State of Delaware, including, but not limited to: 21 Del. C. § 4164(c),

21 Del. C. § 4131, 21 Del. C. § 4133, 21 Del. C. § 4176(b), 21 Del. C. § 4176(a), 21 Del. C. § 4168(a) and 21 Del. C. § 4175(a).

10. Pursuant to the aforesaid policy of insurance, State Farm became liable for damages that arose out of this incident.

11. Due to this incident, expenses were incurred for damages in the form of medical expenses and other personal injury protection (“PIP”) benefits paid to or on behalf of the occupant of the insured vehicle. Payments by State Farm pursuant to said PIP benefit obligations were last disbursed by State Farm on March 1, 2006.

12. At the time of this accident, the defendant was a self insured entity providing protection against the risk of loss in connection with the operation of the motor vehicle that was owned and/or operated by the defendants. As early as January 1, 2007 and at other times subsequent thereto, State Farm placed the defendants on notice of its PIP payment subrogation lien. The defendants responded to that notice on March 16, 2007.

13. Pursuant to the aforesaid policy of insurance, the Common Law and governing statutes, State Farm is subrogated for all money paid and seeks recovery of these sums totaling \$24,655.54.

**COUNT I**  
**Negligence**  
**(State Farm vs. defendant Rowe)**

14. State Farm repeats and realleges paragraphs 1 through 13, as if set forth herein at length.

15. Defendant Rowe is liable as the negligent driver.

WHEREFORE, State Farm demands judgment for \$24,655.54 plus costs of this suit, pre-judgment and post-judgment interest and such other and further relief as this Court may deem just and proper.

**COUNT II**  
**Negligence**  
**(State Farm vs. defendant U.S.)**

16. State Farm repeats and realleges paragraphs 1 through 15, as if set forth herein at length.

17. Defendant U.S. is liable under the doctrine of Respondeat Superior for the negligence of defendant Rowe.

18. Defendant U.S. was negligent in entrusting this motor vehicle to someone who defendant U.S. knew or should have known was a dangerous, unlicensed, inexperienced or careless motor vehicle operator.

WHEREFORE, State Farm demands judgment for \$24,655.54 plus costs of this suit, pre-judgment and post-judgment interest and such other and further relief as this Court may deem just and proper.

SHIELDS & HOPPE LLP

By:   
Amanda L. H. Brinton (#4523)  
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(302) 994 4049

*Attorney for Plaintiff State Farm Mutual  
Automobile Insurance Company*

9/7/07

07-543

JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

*State Farm Mutual  
Automobile Ins. Co.*

(b) County of Residence of First Listed Plaintiff *Allentown*  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

*Amanda L. H. Brinkley  
5700 Kirkwood Highway, Suite 105A  
Wilmington DE 19803*

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity  
(Indicate Citizenship of Parties in Item III)

**DEFENDANTS**

*United States (U.S. Post Office)  
Ryan T. Rowe.*

County of Residence of First Listed Defendant *All*

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

*U.S. Attorney*

*SEP 10 2007  
U.S. DISTRICT COURT  
DELaware*

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	<input checked="" type="checkbox"/> PTF <input checked="" type="checkbox"/> DEF	Incorporated or Principal Place of Business In This State
Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation

*PTF  DEF  
SEP 10 2007  
U.S. DISTRICT COURT  
DELaware*

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input checked="" type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> LABOR	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 865 RSI (405(g))	12 USC 3410
<input type="checkbox"/> REAL PROPERTY	<input type="checkbox"/> CIVIL RIGHTS	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 790 Other Labor Litigation		<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare			<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment			<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
	<input type="checkbox"/> 440 Other Civil Rights			<input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN**

(Place an "X" in One Box Only)

Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

*Subrogation in relation to motor vehicle tort*

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

*9-7-07*

*Amanda L. H. Brinkley*

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 07-543

**ACKNOWLEDGMENT  
OF RECEIPT FOR AO FORM 85**

**NOTICE OF AVAILABILITY OF A  
UNITED STATES MAGISTRATE JUDGE  
TO EXERCISE JURISDICTION**

I HEREBY ACKNOWLEDGE RECEIPT OF 3 COPIES OF AO FORM 85.

8/10/07

(Date forms issued)

Joe Bentoh (PARCels)

(Signature of Party or their Representative)

(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action